

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

FILED  
U.S. DISTRICT COURT  
NORTHERN DIST. OF TX  
FT. WORTH DIVISION  
DEC 12 AM 9:29  
CLERK OF COURT

THOMAS E. PEREZ, Secretary of Labor,  
United States Department of Labor

Plaintiff,

v.

Civil Action No. \_\_\_\_\_

DALLAS-FORT WORTH DOMICILE,  
ALLIED PILOTS ASSOCIATION,  
14600 Trinity Boulevard, Suite 500  
Fort Worth, Texas 76155

4-14 CV-997-0

and

ALLIED PILOTS ASSOCIATION,  
NATIONAL HEADQUARTERS,  
14600 Trinity Boulevard, Suite 500  
Fort Worth, Texas 76155

Defendants.

**ORIGINAL COMPLAINT**

Plaintiff, Thomas E. Perez, Secretary of Labor, alleges as follows:

**NATURE OF THE ACTION**

1. Plaintiff brings this action under Title IV of the Labor-Management Reporting and Disclosure Act of 1959, 29 U.S.C. §§ 481–484 (the “Act”), for a judgment declaring that the April 1, 2014, election of union officers conducted by the Allied Pilots Association (APA) and its Dallas-Fort Worth Domicile (DFW Domicile), for the offices of DFW Domicile Chairman and DFW Domicile Vice Chairman is void, and directing

Defendants to conduct a new election for the offices of DFW Domicile Chairman and DFW Domicile Vice Chairman under Plaintiff's supervision, and for other appropriate relief.

### JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 29 U.S.C. § 482(b), 28 U.S.C. § 1331, and 28 U.S.C. § 1345.

3. Venue lies in this district pursuant to 29 U.S.C. § 482(b) and 28 U.S.C. § 1391(b).

### PARTIES

4. Plaintiff, Thomas E. Perez, is the duly appointed Secretary of Labor, United States Department of Labor. Plaintiff is authorized to bring this action under section 402(b) of Title IV of the Act, 29 U.S.C. § 482(b).

5. Defendants are, and at all times relevant to this action have been, unincorporated associations residing within the County of Tarrant, Texas, within the jurisdiction of this district.

### FACTUAL ALLEGATIONS

6. Defendant DFW Domicile represents itself to be, and at all times relevant to this action has represented itself to be, a local labor organization engaged in an industry affecting commerce within the meaning of sections 3(i), 3(j), and 401(b) of the Act (29 U.S.C. §§ 402(i), 402(j) and 481(b)).

7. Defendant APA is, and at all times relevant to this action has been, a labor organization engaged in an industry affecting commerce within the meaning of sections

3(i), 3(j), and 401(b) of the Act (29 U.S.C. §§ 402(i), 402(j) and 481(b)). If Defendant DFW Domicile is not a separate labor organization from APA, its parent body, APA is the local union that carried out the April 1, 2014, union officer election.

8. Defendants, purporting to act pursuant to their Constitutions and Bylaws, conducted an election of officers on April 1, 2014, and this election was subject to the provisions of Title IV of the Act (29 U.S.C. §§ 481–484).

9. By letter dated April 15, 2014, the complainant, Thomas Westbrook, a member in good standing of Defendants, protested Defendants' election to the Defendant APA's Appeal Board.

10. By email dated June 13, 2014, Defendant APA's Appeal Board denied the protest.

11. Having exhausted the internal remedies available and received a final decision, Westbrook filed a timely complaint with the Secretary of Labor on July 14, 2014, on the first business day after Sunday, July 13, 2014, which was within the one calendar month required under section 402(a)(1) of the Act, 29 U.S.C. § 482(a)(1).

12. By letter signed July 18, 2014, Defendants agreed that the time within which Plaintiff may bring suit with respect to Defendants' aforesaid election be extended to October 31, 2014.

13. By letter signed September 15, 2014, Defendants agreed that the time within which Plaintiff may bring suit with respect to Defendants' aforesaid election be extended to December 5, 2014.

14. By letter signed November 4, 2014, Defendants agreed that the time within

which Plaintiff may bring suit with respect to Defendants' aforesaid election be extended to December 12, 2014.

15. Pursuant to section 601 of the Act (29 U.S.C. § 521), and in accordance with section 402(b) of the Act (29 U.S.C. § 482(b)), Plaintiff investigated the complaint and, as a result of the facts shown by his investigation, found probable cause to believe that: (1) violations of Title IV of the Act (29 U.S.C. §§ 481-484) had occurred in the conduct of Defendants' April 1, 2014 election; and (2) that such violations had not been remedied at the time of the institution of this action.

16. Defendants engaged the services of a contractor, BallotPoint Election Services, owned by CCComplete, headquartered in Portland, Oregon, to conduct the April 1, 2014, election of officers using an internet-based electronic voting system in which voters cast their votes using the internet and telephone.

17. This internet-based electronic voting system permitted the names of voters to be linked with their voting choices. The system stores member identifying information on its servers in a way that could allow individuals with access to both of the servers to identify how a member voted.

18. Such a link is evident because the system permits the union election administrators to remove the votes of voters determined to be ineligible after they have cast their votes and permits members to view the content of their vote after they have cast their votes and even after the election has closed.

19. During the course of the investigation, Plaintiff obtained records from BallotPoint and its subcontractor, Allied Media, located in Fenton, Michigan. Using

these records, which reflected information stored on the system's servers, Plaintiff was able to match the names of 1,310 voters out of 1,382 votes cast to their choice of candidates.

20. The internet voting system also did not permit an observer to effectively observe the election. Observers were able to view reports generated by the software, but observers were not able to verify that the votes were recorded and tallied correctly.

#### FIRST CAUSE OF ACTION

21. Defendants violated section 401(b) of the Act, 29 U.S.C. § 481(b), during the conduct of the aforesaid election, when Defendants failed to elect the DFW Domicile Chairman and Vice Chairman by secret ballot among the members in good standing when they used an internet-based electronic voting method that permitted voters to be identified with their votes.

#### SECOND CAUSE OF ACTION

22. Defendants violated section 401(c) of the Act, 29 U.S.C. § 481(c), during the conduct of the aforesaid election, when they failed to provide adequate safeguard to insure a fair election, specifically, by denying a candidate's right to have an observer at the polls and at the counting of the ballots in that the internet-based electronic voting system did not permit an observer to verify that a vote was recorded and tallied accurately.

23. The violations of section 401(b) and 401(c) of the Act (29 U.S.C. § 481(b) and (c)) may have affected the outcome of Defendants' election for the offices of DFW Domicile Chairman and DFW Domicile Vice Chairman.

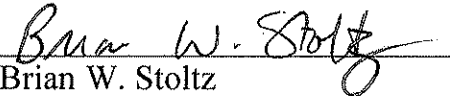
PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment:

- (a) declaring Defendants' election for the offices of DFW Domicile Chairman and DFW Domicile Vice Chairman to be void;
- (b) directing Defendants to conduct a new election for the offices of DFW Domicile Chairman and DFW Domicile Vice Chairman under the supervision of Plaintiff;
- (c) for the costs of this action; and
- (d) for such other relief as may be appropriate.

Respectfully submitted,

SARAH R. SALDAÑA  
UNITED STATES ATTORNEY

  
Brian W. Stoltz  
Assistant United States Attorney  
Texas Bar No. 24060668  
1100 Commerce Street, Third Floor  
Dallas, Texas 75242-1699  
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Facsimile: 214-659-8807  
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Attorneys for Plaintiff

## CIVIL COVER SHEET

ORIGINAL

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Thomas E. Perez, Secretary of Labor,  
United States Department of Labor

(b) County of Residence of First Listed Plaintiff  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Brian W. Stoltz, Assistant United States Attorney  
1100 Commerce Street, Third Floor, Dallas, Texas 75242  
(214) 659-8626

## DEFENDANTS

Dallas-Fort Worth Domicile, Allied Pilots Association

Allied Pilots Association, National Headquarters

County of Residence of First Listed Defendant Tarrant County  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

4-14 CV-997-0

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input checked="" type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		
		<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions			

## V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 29 U.S.C. §§ 481-484, Labor-Management Reporting and Disclosure Act of 1959  
 Brief description of cause:  
 challenge to balloting procedures used in April 2014 APA DFW Domicile union election

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED PENDING OR CLOSED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 12/21/2014

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE